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*Counsel for UBS Securities LLC and
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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re	§	Chapter 11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	Case No. 19-34054-sgj11
	§	
Debtor.	§	
-----	§	
UBS SECURITIES LLC AND UBS AG	§	Adversary Proceeding
LONDON BRANCH,	§	
	§	No. 21-03020
Plaintiffs,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Defendant.	§	

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

**PLAINTIFFS' MOTION FOR AN ORDER AUTHORIZING
ALTERNATIVE SERVICE OF SUBPOENAS**

UBS Securities LLC and UBS AG London Branch (together, “UBS”), plaintiffs in the above-captioned adversary proceeding (the “Adversary Case”) and creditors in the above-captioned chapter 11 case (the “Bankruptcy Case”), by and through their undersigned counsel, hereby move (the “Motion”) the Court for entry of an Order, substantially in the form attached hereto as **Exhibit A** (the “Proposed Order”), authorizing alternative service of process of a *Subpoena to Testify at a Deposition in a Bankruptcy Case or Adversary Proceeding* and a *Subpoena to Produce Documents, Information, or Objects or To Permit Inspection in a Bankruptcy Case or Adversary Proceeding* (together, the “Subpoenas”) upon James Dondero—who is evading service. In support of this Motion, UBS respectfully states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).
2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

3. By this Motion, UBS respectfully requests entry of an Order authorizing alternative service of the Subpoenas upon Mr. Dondero by: (i) overnight mail to Mr. Dondero’s current home address; and (ii) email to Mr. Dondero’s counsel.
4. As set forth more fully in the *Memorandum of Law in Support of Plaintiffs’ Motion for an Order Authorizing Alternative Service of Subpoenas* (the “Memorandum of Law”) and the *Declaration of Kathryn George in Support of Plaintiffs’ Motion for an Order Authorizing Alternative Service of Subpoenas* (the “George Declaration”) (as set forth in the *Appendix of Exhibits in support of Plaintiffs’ Motion for an Order Authorizing Alternative Service of*

Subpoenas (the “Appendix”)), filed contemporaneously with this Motion, UBS has diligently attempted to serve the Subpoenas on Mr. Dondero, having made over 31 attempts, all to no avail.

5. UBS is seeking discovery from Mr. Dondero in connection with *Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction* [Adv. Dkt. No. 4] (the “TRO Motion”). The Court entered an *Order Granting Plaintiffs’ Motion for a Temporary Restraining Order* [Adv. Dkt. No. 21] (the “TRO Order”) on April 9, 2021, however, the TRO Order remains in place only until this Court’s decision on UBS’s requested preliminary injunction. In order to present evidence at a hearing on such motion, UBS needs an opportunity to seek discovery from Mr. Dondero—who was heavily involved in orchestrating the fraudulent conduct underlying the TRO Motion.

6. As described in the Memorandum of Law, George Declaration, and Appendix, and upon information and belief, Mr. Dondero is evading service. Where, as here, a party is unable to effect personal service because the intended recipient is evading service attempts, courts have allowed service by alternative methods—including mail and/or email—that are reasonably calculated to reach the intended recipient.

7. Based on (i) the facts and argument set forth in the Memorandum of Law and (ii) the exhibits and affidavits of attempted service attached to the George Declaration, UBS is entitled to the relief requested in this Motion as set forth in the Proposed Order.

NOTICE

8. Notice of the Motion shall be provided to (i) the Debtor and counsel to the Debtor; (ii) counsel to the official committee of unsecured creditors; (iii) the United States Trustee; (iv) counsel to Mr. Dondero; and (v) all other parties registered to receive ECF notifications in this Adversary Case. UBS submits that such notice is sufficient and no further notice of the Motion is required.

CONCLUSION

WHEREFORE, UBS respectfully requests that the Court (i) enter an Order substantially in the form of the Proposed Order attached hereto as **Exhibit A** granting the relief requested herein and (ii) grant UBS such other and further relief as the Court may deem proper.

[Remainder of this page intentionally left blank.]

Dated: April 19, 2021

Respectfully submitted,

/s/ Andrew Clubok

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*Counsel for UBS Securities LLC and UBS
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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that, on April 15, 2021, counsel for UBS conferred with counsel for the Debtor regarding the relief requested in the Motion. Counsel for the Debtor indicated that the Debtor supports the relief sought herein.

The undersigned further certifies that, on April 16, 2021, counsel for UBS conferred with counsel for Mr. James Dondero regarding the relief requested in the Motion. Counsel for Mr. Dondero indicated that Mr. Dondero does not support the relief sought herein.

Dated: April 19, 2021

/s/ Andrew Clubok

CERTIFICATE OF SERVICE

I, Martin Sosland, certify that *Plaintiffs' Motion for an Order Authorizing Alternative Service of Subpoenas* was filed electronically through the Court's ECF system, which provides notice to all parties of interest.

Dated: April 19, 2021

/s/ Martin Sosland